

CITY COUNCIL MEETING OF THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS, JULY 6, 2010

The City Council of the City of Leon Valley, Texas, met on the 6TH day of July, 2010 at 5:00 p.m. at the Leon Valley City Council Chambers, at 6400 El Verde Road, Leon Valley, Texas, for the purpose of the following business, to-wit:

SPECIAL CITY COUNCIL WORKSHOP – 5:00 P.M.

Call to Order

Mayor Riley called the Special City Council Budget Workshop Meeting to order at 5:08 p.m. and asked that the minutes reflect that the following members of City Council were present: Garcia, Reyna, Baldrige, and Dean. Mayor Riley announced that Councilmember Nelson had an excused absence due to illness.

City Manager Lambert, City Secretary Willman, Chief Accountant Wallace, Community Development Director Flores, Economic Development Director Ryan, HR Director Caldera, Library Director Trent, Fire Chief Irwin, Police Chief Wallace, and Public Works Director Vick.

Discussion on the Proposed Fiscal Year 2011 Budget

City Manager Lambert introduced the Proposed Budget and attendant budget message to the City Council. Mr. Lambert noted the changes from the prior year's budget. Proposed is a 2 cent tax increase in the ad valorem tax rate which would generate \$122,000. Budgeted is a 4.5 percent increase in sales tax from last year. The existing tax rate is 0.5274. The tax rate for the budget adopted as proposed would be 0.5474, a 2 cent increase. Of the proposed 0.5474; 48.4 cents would allocated into the General Fund, Maintenance & Operation; and 6.3 cents would go into the Debt Service Fund. This would equate to \$27.34 increase in the average home in Leon Valley including a 2 cent increase plus the property valuation increase. The budget summary of anticipated revenues available is \$6.841 million; the total expenditures are \$6.953 million for a budget deficit of \$112,098 which is why the 2 cent increase is being proposed

The Council requested that the following information be included or provided for the next budget workshop: 1) \$20,000 for Library books and 2) \$20,000 for sidewalks. The Public Works Director was asked to provide a list of sidewalks replaced as part of the July 20 workshop for \$42,000. The Council will consider expending the entire street maintenance fund including the addition of sidewalks.

Budget change documentation will be in the next council packet for the July 20 Regular Meeting Agenda. The Mayor asked that another workshop meeting for 5 p.m. preceding the August 3 regular City Council Meeting be set aside.

Adjourn

The Leon Valley EDC Fund Budget and TMRS and the City's health insurance broker are scheduled for the July 20 Budget Workshop Meeting.

Hearing no further business, Mayor Riley announced the meeting adjourned at 6:37 p.m. for a reception to welcome the new City Secretary.

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REGULAR CITY COUNCIL MEETING - 7:00 P.M.

Call to Order and Pledge of Allegiance

Mayor Riley called the Regular City Council Meeting to order at 7:03 p.m. and asked that the minutes reflect that the following members of City Council were present: Garcia, Reyna, Baldridge, and Dean. Mayor Riley announced that Councilmember Nelson had an excused absence due to illness.

City Manager Lambert, City Secretary Willman, Community Development Director Flores, Economic Development Director Ryan, Fire Chief Irwin, Public Works Director Vick, and City Attorney Mick McKamie.

Mayor Riley led the assembled group in reciting the Pledge of Allegiance.

Presentation of Good Neighbor Award to the Community Events Committee in recognition of the 16TH Annual Independence Day Parade and Celebration to Ms. Sylvia Gomez, Staff Liaison.

Mayor Riley presented Community Events Committee Staff Liaison Sylvia Gomez and members of the Community Events Committee a Good Neighbor Award in recognition of their hard work in coordinating and planning the 16th Annual Independence Day Parade and Celebration. The Mayor thanked the staff for their hard work and contributions.

Citizens to be heard and time for objections to the Consent Agenda.

Councilman Garcia asked that Consent Agenda Item 8 be removed from the Consent Agenda for discussion.

Consent Agenda

4. **Consider approval of the minutes for the Regular Council Meeting of June 15, 2010 and the Special City Council Workshop of June 19, 2010 (Willman).**
5. **Consider Action on M&C # 07-01-10, with Resolution Amending the Rules of Conduct for City Council Established in Resolution No. 07-009. (Mayor Riley)**
6. **Consider Action on an Ordinance - a request to approve an appointment to the Earthwise Living Committee and The Leon Valley Now Program (J. Johnson) (Mayor Riley).**
7. **Consider Action on M&C # 07-02-10, a request for the Continuation of an Agreement with the United States Department of Justice, Drug Enforcement Administration. (R. Wallace)**

A motion was made by Councilman Reyna and seconded by Councilman Dean to approve Consent Agenda Items 4, 5, 6, and 7, as presented. Voting in favor: Garcia,

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Baldrige, Reyna, and Dean. Voting against: None. Mayor Riley announced the motion carried, consent agenda items 4-7 are approved.

8. **Consider Action on M&C # 07-03-10 - a request to Accept the Bid and Award Contract for the Poss Road Paving Project to Ramming Paving and Authorize the City Manager to Sign the Contract in the amount of \$77,078 and Change Orders Up to an Additional 25 Percent of Bid Amount. (Vick)**

Public Works Director Vick detailed the bidding process for the second part of the street improvement program for the resurfacing on Poss Road. One bid received was from Ramming Paving for \$77,077.50 for the road curb installation and asphalt. The 25 percent increase being sought is to redo the parking lot adjacent to the monument for Raymond Rimkus Park. He noted that the work can commence next week weather permitting. A question was raised as to why there was only one bid received in a tight economy. That one bid received was attributed to the reduced scope of the work because Public Works is doing about \$65,000 of the work.

A motion was made by Councilman Garcia and seconded by Councilmember Baldrige to approve Consent Agenda Item 8, as presented. Voting in favor: Garcia, Baldrige, Reyna, and Dean. Voting against: None. Mayor Riley announced the motion to award the contract for Poss Road is approved.

Regular Agenda

9. **Consider Action on M&C # 07-04-10 with attached ordinance - a Request to Amend the City Code of Ordinances, Chapter 14, "Zoning," Section 14.02.305, "Regulations for All Districts," and (m)," "Overlay Districts," to add Gateway Overlay District Standards and providing a penalty of up to Two Thousand Dollars (\$2,000). (Flores) On June 22, 2010, the Zoning Commission recommended approval of the request by a vote of 5, with 1 vote abstained.**

Community Development Director Flores introduced Jim Carrillo, Director of Planning for Halff Associates. Mr. Carrillo introduced the item, referencing a memorandum dated June 25, 2010 attached to the M&C, covering details of proposed changes by the Zoning Commission. He noted that the newly proposed gateway overlay was a result of the direction given by Council in May, to create a new area in the overlay district in the northwest part of the City that could accommodate an enclosed car wash.

Mr. Carrillo noted that the Gateway Overlay was very similar to the Sustainability Overlay District with a couple of key changes. He explained that the changes consisted of: standards for a specific use permit over and above what is contained in current ordinances; considers the types of uses that would be allowed in the gateway, includes changes to the permitted use table and strict screening requirements. He explained the additional screening requirements and changes to the land use chart adding the carwash to the gateway overlay, requiring a Specific Use Permit, and taking other careful considerations to ensure that specified uses would not pose problems in the future.

Jerry Arredondo, 6322 Sovereign, the agent for the property owner of the car wash,

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expressed his appreciation for the work done to include the carwash. He noted that there appeared to be a successful conclusion to the process, after many discussions, to work with the Council and staff to locate the carwash in Leon Valley.

Claude Guerra, Zoning Chair, provided input based on the Zoning Commission's recommendation, indicating the Commission's reliance on Mr. Carrillo's recommendations.

Olen Yarnell, Zoning Commission, indicated the matter was covered extensively over a period of three or four meetings adding the Council had a good suggestion to bring it back and present a new overlay.

Pedro Esquivel, Zoning Commission, deferred to the Zoning Commission minutes as providing insight into the decisions reached.

Councilmember Baldrige commented that she was wary that the City Council may be creating a situation that would allow other applicants to recommend changes/exceptions to the newly adopted overlay districts.

Mayor Riley and Councilman Dean agreed with Councilmember Baldrige's assessment. Councilman Garcia noted that when the overlay district was first considered, the gateway was not considered; these changes represent the opportunity to re-focus on this part of the City.

B. Council to consider action on ordinance.

A motion was made by Councilman Reyna and seconded by Councilman Garcia to adopt the ordinance as presented. Voting in favor: Garcia, Baldrige, Reyna, and Dean. Voting against: None. Mayor Riley announced the motion carried.

10. **Consider Action on Zoning Case No. ZC 2010-383 with attached ordinance - a request by Crossway SA Income Partners, applicant and property owner, to rezone a remaining portion of Lot 76, Block 3, CB 5784, Leon Valley Addition, Crossway Shopping Center, being part of 4.224 acres of land, from B-2 (Retail) to B-3 (Commercial) Zoning at 6812 Bandera Road. (Flores). On June 22, 2010, the Zoning Commission recommended approval of the request by a vote of 6-0. (Flores)**

Community Development Director Flores introduced the request and history of the affected property. Zoning Commission Chairman Claude Guerra came forward to address the Council regarding the applicant's request. Ms. Flores indicated that this is just a re-zoning case and therefore restrictions cannot be placed on the zoning itself. Staff mailed 19 letters to property owners within 200 feet and as of this evening, no letters were received in favor, none were received opposed, and none were returned as undeliverable.

Olen Yarnell, Zoning Commission, provided input. He had ascertained during a Zoning meeting there no other areas of the City having this kind of situation. The property owner tried several combinations of different types of businesses to get tenants in the location without success. Working with this property owner and this vacant property is a positive step.

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Ernest Eisenberg – Representative of the management and the owner, detailed the challenges in trying to obtain tenants for the property based on the current zoning restrictions. He noted the request is consistent with the Sustainability overlay requirement that B-2 should be 200 feet from Bandera Road. Aside from additional tenant interest, he expressed his belief that this represents an opportunity to work with the City to make the building and community better.

Mayor Riley thanked Mr. Eisenberg for bringing the attention of the City to the problem with the issue and for working work together to find a resolution.

ED Director Ryan was asked how the zoning fits with the concept of projects in process for the town center. Ms. Ryan indicated it fits very well with this representing a very good use of the area. She affirmed with the overlay protection, the City will have the zoning requirement met and yet be able to lease the space.

B. Council to consider action on ordinance.

Motion by Councilman Reyna and second by Councilman Dean to adopt the zoning change for the Crossways from B-2 to B-3. Voting in favor: Garcia, Baldrige, Reyna, and Dean. Voting against: None. Mayor Riley announced that the motion carried.

11. Consider Action on M&C # 07-06-10 – a request to Consider a Variance to the Leon Valley Code of Ordinances, Chapter 14, “Zoning,” Section 14.02.305, “Regulations for All Districts,” Sub-Section (m), “Overlay Districts, Part 2j., “Prohibited Signs,” to Allow a Light Emitting Diode (LED) Sign at Waterworks Car Wash at 5783 Wurzbach Road. (Ryan)

ED Director Ryan introduced John Nikolau, applicant, and the matter before the Council. Ms. Ryan presented the matter of the need for the variance being requested as the vote by the Zoning Board of Adjustment being 3 to 2 in favor on a case on which a super majority vote would be required and so the motion failed. Mr. Nikolau requested to appear before City Council for variance due to his economic hardship that is created by not having the sign that he requested. Council viewed a presentation of the sign as it stands versus what is proposed.

John Nikolau, applicant, informed the Council that he has made a change to the service offering and made a considerable investment in terms of parking lot improvements. The business is a SAWS certified car wash; recognized as a water saver partner and conservation consistent with Leon Valley’s El Verde conservation activities.

Tony Flores, Leon Valley Chamber of Commerce, spoke in support of the proposed variance.

Abraham Diaz, Economic Development Corporation, asked that the variance be given favorable consideration.

Al Baldrige, BOMA, spoke in favor of LED signs and in favor of the variance.

The City Attorney asked about the requirement of a super majority vote of the Board of

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Adjustment and if the Council is able to change that. City Attorney McKamie informed the Council that state law requires that variances can be granted only by super majority; there is no way the City Council can change that, it is not a City ordinance. Board of Adjustment decisions are appealed to district court not to the City Council. The City Attorney noted that in many cities, the City Council determines variances to the Sign Code. He informed the City Council that it will have to hear all variances to the Sign Code from this point forward.

There was brief discussion by the Council regarding existing and proposed LED light use in the City. The City Attorney was about the effect of the Overlay District which prohibits the use of LED signs. Mr. McKamie noted this as the reason for granting a variance.

Motion by Councilman Dean and second by Councilmember Baldrige to approve the variance at the Water Works on Wurzbach Road. Voting in favor: Garcia, Baldrige, Reyna, and Dean. Voting against: None. Mayor Riley announced that the motion carried.

12. Consider Action on M&C # 07-07-10 with attached ordinance a Request to Consider a Written Proposal with Estimated Cost of \$46,124 to Conduct a Traffic Study on Bandera Road and Related Budget Adjustments. (Councilman Reyna/De La Garza)

Mr. De La Garza highlighted the proposal prepared for traffic counts to be conducted in two phases included with M&C # 07-07-10. He summarized the phase work and cited the firm's experience with these types of projects.

The Council discussed the effect of having empirical data to demonstrate what can be done to help alleviate congestion versus the cost of the study during this financially challenging climate. Questions were raised about the validity of the traffic study and its shelf life. Traffic patterns are projected up to 20 years in advance. Discussion continued regarding the Council's actions since September 2009 to determine a vision regarding transportation options to relieve traffic congestion and to work with transportation authorities to try to find a funding source.

Motion by Councilman Reyna and second by Councilman Garcia to approve the contract and perform the traffic study. A request was made for a roll call vote. Voting went as follows: Garcia, yes; Reyna, aye; Baldrige, no; Dean, no. Mayor Riley announced there was a tie vote, with the Mayor voting no. The motion failed on a vote of 2 in favor; 3 against.

City Manager Lambert noted it would very useful to ED Director Ryan to have updated traffic counts since the flyover was completed. He asked Mr. De La Garza for a letter about the anticipated cost. The Council thanked Mr. De La Garza for his presentation.

Discussion Agenda

13. Discussion by City Attorney William M. McKamie on "The Impact of Social Networking on Cities." (McKamie)

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City Attorney McKamie informed the Council that he had been asked to discuss the kinds of issues that Social media like Face Book, MySpace, Twitter, and Linked In. The challenges stem from the need to comply with the Public Information Act and responses to requests for records. The Open Records Act, the Open Meetings Act, the City's personnel policy aren't designed to address some of the issues that have arisen because of social media like Face Book, and Twitter.

Under the Public Information Act, every piece of information generated by or for the City is a piece of public information. He described how the phenomenon of social networking creates different expectations in people; specifically, users think it is private. He spoke to the need and challenges in retaining information as records. He discussed what cities do in the light of the challenges that can occur. He shared insight that the Texas Legislative Act is anticipated to prohibit the use of any private devices during a meeting.

The Council asked about the use of private devices used for business-related purposes and maintaining proprietary information as confidential. Mr. McKamie emphasized the best thing is to have a City e-mail, mailbox, and City cell phone accounts and use them for City-related business. He recommended using separate e-mail accounts and cell phones for personal business. The City Attorney was asked to update the Council when the ruling by the Texas Supreme Court is made regarding a case pertinent to this issue or there is a change in the law.

14. Discussion of Transportation Issues. (Mayor Riley)

There was a general discussion of transportation issues including the Unified Vision from Bexar County and the need to discuss funding. The Mayor asked Councilman Reyna to bring back a report from his meeting. She committed to checking with the MPO group.

15. City Manager's Report (Lambert)

- A. Discussion of Towers in Utility Easements; CPS Energy Construction Project Along Evers Road.** Mr. Lambert informed the Council of large steel monopoles that are proposed to be installed along Evers Road.
- B. Discussion of the Installation of Exit Signs along Interstate Highway 410 and Identification and Added Signage for Leon Valley Business District.** Police Chief Randall showed a video taken of the exits leading up to Leon Valley. The Council briefly discussed the need to make signage changes.
- C. Discuss Sale of Old Fire Ladder Truck and Obtain Direction Regarding Best Bid of \$3,500.** Staff was asked to try to find another outlet or circuit that might offer a higher bid for the equipment.
- D. Discuss San Antonio Water System (SAWS) Sewer Line Replacement through Huebner Creek.** SAWS notified the City that they intend to replace the sewer line on Huebner Creek replaced two years ago. The work is still 18 months from construction.
- E. Discuss Contracts Ending in Six Months:**
 - 1. City Manager's Contract Ends January, 2011.**
 - 2. CPS Energy, CIED Fund, 2010 CIED Funding Expiration Date January 31, 2011.**
 - 3. CPS Energy, Franchise Fees, Renewal Date March, 2011**

16. Citizens to be heard.

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17. **Announcements by Council Members and Mayor.**
- A. **Announce Special City Council Workshop Meetings for the FY 2011 Budget on July 20, 2010 at 5 p.m., and on August 3, 2010 at 5 p.m., if needed.**
 - B. **Announce Meeting with Mario Medina, P.E., District Engineer for the San Antonio District of the Texas Department of Transportation, Monday, July 19, 1:30 p.m.; meeting to be posted as a meeting of the City Council to receive an Update on the Bandera Road Project.**
18. **Adjourn.**

Chris Riley

Mayor

ATTEST:

Janie Willman

City Secretary

Minutes approved by unanimous vote of the City Council at the Regular Meeting of August 3, 2010.